

1 CAROL C. LAM
2 United States Attorney
3 LAWRENCE A. CASPER
4 Assistant United States Attorney
5 California State Bar No. 235110
6 United States Attorney's Office
7 Federal Office Building
8 880 Front Street, Room 6293
9 San Diego, California 92101
10 Telephone: (619) 557-7455

11 Attorneys for Plaintiff
12 UNITED STATES OF AMERICA

FILED

JAN - 4 2007

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY *[Signature]* DEPUTY

13 UNITED STATES DISTRICT COURT

14 SOUTHERN DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA,)

07CR0029-BEN
Magistrate Case No. 06MJ2304

16 Plaintiff,)

17 v.) **STIPULATION OF FACT AND JOINT
18 MOTION FOR RELEASE OF
19 MATERIAL WITNESS(ES) AND
20 ORDER THEREON**

21 FRANCISCO JAVIER)

22 CORONADO-DAVILA,)

23 Defendant.)

24 **(Pre-Indictment Fast-Track Program)**

25 IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES
26 OF AMERICA, by and through its counsel, Carol C. Lam, United States Attorney, and Lawrence
27 A. Casper, Assistant United States Attorney, and defendant FRANCISCO JAVIER CORONADO-
28 DAVILA, by and through and with the advice and consent of defense counsel, Candis Mitchell,
Esq., Federal Defenders of San Diego, Inc., that:

1. Defendant agrees to execute this stipulation on or before the first preliminary hearing
date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,
intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead
guilty to the pre-indictment information charging defendant with a non-mandatory minimum count
of Bringing in Aliens Without Presentation and Aiding and Abetting, in violation of 8 U.S.C.
§ 1324(a)(2)(B)(iii) and 18 U.S.C. § 2.

2. //

3. //

1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government not later than five business days
3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
5 before **January 18, 2007**.

6 4. The material witnesses, Jesus Nunez-Valdez, Maria Elena De La Cruz Afanador-
7 Carrillo and Maria Candelaria Afanador-Carrillo, in this case:

8 a. Are aliens with no lawful right to enter or remain in the United States;
9 b. Entered or attempted to enter the United States illegally on or about
10 December 15, 2006;

11 c. Were found in a vehicle driven by defendant at the Otay Mesa, California Port
12 of Entry (POE) and that defendant knew or acted in reckless disregard of the fact that they were
13 aliens with no lawful right to enter or remain in the United States;

14 d. Were paying or having others pay on their behalf \$3,000 to others to be
15 brought into the United States illegally and/or transported illegally to their destination therein; and,

16 e. May be released and remanded immediately to the Department of Homeland
17 Security for return to their country of origin.

18 5. After the material witnesses are ordered released by the Court pursuant to this
19 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
20 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any
21 proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral
22 attack, that:

23 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
24 substantive evidence;

25 b. The United States may elicit hearsay testimony from arresting agents
26 regarding any statements made by the material witness(es) provided in discovery, and such

1 testimony shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements
2 against interest of (an) unavailable witness(es); and,

3 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
4 “testimonial” hearsay statements are not admissible against a defendant unless defendant confronted
5 and cross-examined the witness(es) who made the “testimonial” hearsay statements, defendant
6 waives the right to confront and cross-examine the material witness(es) in this case.

7 6. By signing this stipulation and joint motion, defendant certifies that defendant has
8 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
9 further that defendant has discussed the terms of this stipulation and joint motion with defense
10 counsel and fully understands its meaning and effect.

11 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
12 immediate release and remand of the above-named material witness(es) to the Department of
13 Homeland Security for return to their country of origin.

14 It is STIPULATED AND AGREED this date.

Respectfully submitted,

CAROL C. LAM
United States Attorney

18 Dated: 1/4/04

~~LAWRENCE A. CASPER~~
Assistant United States Attorney

Dated: 27 December 2006

CANDIS MITCHELL
CANDIS MITCHELL
Defense Counsel for Francisco Javier Coronado-Davila

23 Dated: 4 January 2007

Francisco Javier Coronado-Davila
FRANCISCO JAVIER CORONADO-DAVILA
Defendant

28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in

ORDER

2 Upon joint application and motion of the parties, and for good cause shown,
3 **THE STIPULATION** is admitted into evidence, and,
4 **IT IS ORDERED** that the above-named material witness(es) be released and remanded
5 forthwith to the Department of Homeland Security for return to ~~their~~ country of origin.

SO ORDERED.

Dated: 1/4/07

United States Magistrate Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff

vs.

FRANCISCO JAVIER
CORONANDO -Davila

Defendant(s)

CRIMINAL NO.

ObMy 230

ORDER

RELEASING MATERIAL WITNESS

Booking No.

On order of the United States District/Magistrate Judge, LOUISA S. PORTER

IT IS HEREBY ORDERED that the following named person heretofore committed to the custody of the United States Marshal as a material witness be released from custody: (Bond Posted / Case Disposed / Order of Court)

Jesus Nunez-Valdez

DATED: 1/4/07

LOUISA S. PORTER

UNITED STATES DISTRICT/MAGISTRATE JUDGE

RECEIVED _____
DUSM

OR

W. SAMUEL HAMRICK, JR. Clerk

by


Deputy Clerk